



UNITED STATES DEPARTMENT OF COMMERCE
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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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07/885,903 05/18/92 VAN NEST

G CHIR-001/024

EXAMINER

SALATA, C

ART UNIT	PAPER NUMBER
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1811

15

DATE MAILED: 10/01/92

COOLEY GODWARD CASTRO HUDDLESON & TATUM
51 PALO ALTO SQUARE
4TH FLOOR
PALO ALTO, CA 94306

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on _____ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), _____ days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- ☐ Notice of References Cited by Examiner, PTO-892.
- ☐ Notice re Patent Drawing, PTO-948.
- ☐ Notice of Art Cited by Applicant, PTO-1449.
- ☐ Notice of Informal Patent Application, Form PTO-152.
- ☐ Information on How to Effect Drawing Changes, PTO-1474.
- ☒ *examiners interview summary record PTOL-413*

Part II SUMMARY OF ACTION

- ☒ Claims 1-35 are pending in the application.
Of the above, claims 10-28, 31-35 are withdrawn from consideration.
- ☐ Claims _____ have been cancelled.
- ☐ Claims _____ are allowed.
- ☒ Claims 1-9, 29-30 are rejected.
- ☐ Claims _____ are objected to.
- ☐ Claims _____ are subject to restriction or election requirement.
- ☐ This application has been filed with Informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
- ☐ Formal drawings are required in response to this Office action.
- ☐ The corrected or substitute drawings have been received on _____ Under 37 C.F.R. 1.84 these drawings are ☐ acceptable ☐ not acceptable (see explanation or Notice re Patent Drawing, PTO-948).
- ☐ The proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been ☐ approved by the examiner. ☐ disapproved by the examiner (see explanation).
- ☐ The proposed drawing correction, filed on _____, has been ☐ approved. ☐ disapproved (see explanation).
- ☐ Acknowledgment is made of the claim for priority under U.S.C. 119. The certified copy has ☐ been received ☐ not been received
☐ been filed in parent application, serial no. _____; filed on _____
- ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
- ☐ Other

EXAMINER'S ACTION

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Art Unit 1811

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Claims 1-35 are pending in this application.

Claims 1-9 and 29-30 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Prigal for the reasons of record and those set forth below.

The mere fact that column 5 of the patent describes that the physical makeup of the patentee's emulsion consists of globules of particles of a dispersed phase surrounded by oil is not sufficient to warrant removal of this ground of rejection.

Claims 1-9 and 29-30 are rejected under 35 U.S.C. § 102(b) as anticipated by or, in the alternative, under 35 U.S.C. § 103 as obvious over Glass et al. or Cantrell for the reasons of record and those set forth below.

Applicant urges that Glass does not teach "compositions or methods wherein the oil droplets are substantially all less than one micron in size" and that Cantrell "neither recognizes nor discloses the use of advantageous particle size.

However, the question is not merely what the references expressly or individually teach, but what they would have suggested to one of ordinary skill in the art at the time applicant's invention was made: the references must be considered in their entirety, and such consideration is not limited to the specific working examples.

No unexpected or unobvious results are noted and the claims

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must be refused.

No claim is allowed.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carol A. Salata whose telephone number is (703) 308-4214.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

CS
Salata/em
September 27, 1992

Lester L. Lee
LESTER L. LEE
PRIMARY PATENT EXAMINER
ART UNIT 1811
1811